

use of the relocation incentive authority within the agency during the previous calendar year for use in compiling an OPM report to Congress, as required by section 101(c) of Public Law 108-411. Each agency report must include—

(1) A description of how the authority to pay relocation incentives was used by the agency during the previous calendar year;

(2) The number and dollar amount of relocation incentives paid during the previous calendar year to individuals by occupational series and grade, pay level, or other pay classification; and

(3) Other information, records, reports, and data as OPM may require.

**§ 575.214 Relocation bonus service agreements in effect before May 1, 2005.**

This subpart does not apply to a relocation bonus service agreement that was authorized under 5 U.S.C. 5753 and 5 CFR part 575, subpart B, before May 1, 2005. Such service agreements remain in effect until their expiration, subject to regulations applicable to relocation bonuses before May 1, 2005. (See 5 CFR part 575 and part 530, subpart B, contained in the 5 CFR, parts 1 to 699, edition revised as of January 1, 2005.)

**Subpart C—Retention Incentives**

SOURCE: 70 FR 25747, May 13, 2005, unless otherwise noted.

**§ 575.301 Purpose.**

This subpart contains regulations implementing 5 U.S.C. 5754, which authorizes payment of retention incentives. An agency may pay a retention incentive to a current employee under the conditions specified in this subpart when an agency determines that the unusually high or unique qualifications of the employee or a special need of the agency for the employee's services makes it essential to retain the employee and that the employee would be likely to leave in the absence of an incentive.

[70 FR 25747, May 13, 2005, as amended at 72 FR 64527, Nov. 16, 2007]

**§ 575.302 Definitions.**

In this subpart:

*Agency* means an executive agency or a legislative branch agency included in 5 U.S.C. 5102(a)(1).

*Authorized agency official* means the head of an agency or an official who is authorized to act for the head of the agency in the matter concerned.

*Competencies* means the knowledge, skills, abilities, behaviors, and other characteristics an employee needs to perform the duties of a position.

*Employee* has the meaning given that term in 5 U.S.C. 2105, except that the term also includes an employee described in 5 U.S.C. 2105(c).

*Executive agency* has the meaning given that term in 5 U.S.C. 105.

*OPM* means the Office of Personnel Management.

*Rate of basic pay* means the rate of pay fixed by law or administrative action for the position to which an employee is appointed before deductions and including any special rate under 5 CFR part 530, subpart C, or similar payment under other legal authority, and any locality-based comparability payment under 5 CFR part 531, subpart F, or similar payment under other legal authority, but excluding additional pay of any other kind. For example, a *rate of basic pay* does not include additional pay such as night shift differentials under 5 U.S.C. 5343(f) or environmental differentials under 5 U.S.C. 5343(c)(4).

*Service agreement* means a written agreement between an agency and an employee under which the employee agrees to a specified period of employment with the agency in return for payment of a retention incentive.

**§ 575.303 Eligible categories of employees.**

(a) Except as provided in § 575.304, an Executive agency may pay a retention incentive to a current employee who holds—

(1) A General Schedule position paid under 5 U.S.C. 5332 or 5305 (or similar special rate authority);

(2) A senior-level or scientific or professional position paid under 5 U.S.C. 5376;

(3) A Senior Executive Service position paid under 5 U.S.C. 5383 or a Federal Bureau of Investigation and Drug

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Enforcement Administration Senior Executive Service position paid under 5 U.S.C. 3151;

(4) A position as a law enforcement officer, as defined in 5 CFR 550.103;

(5) A position under the Executive Schedule paid under 5 U.S.C. 5311–5317 or a position the rate of pay for which is fixed by law at a rate equal to a rate for the Executive Schedule;

(6) A prevailing rate position, as defined in 5 U.S.C. 5342(a)(3); or

(7) Any other position in a category for which payment of retention incentives has been approved by OPM at the request of the head of an executive agency.

(b) Except as provided in § 575.304, a legislative agency may pay a retention incentive to a current employee who holds a General Schedule position paid under 5 U.S.C. 5332 or 5305 (or similar special rate authority).

[70 FR 25747, May 13, 2005, as amended at 72 FR 67839, Dec. 3, 2007]

### § 575.304 Ineligible categories of employees.

An agency may not pay a retention incentive to an employee in—

(a) A position to which an individual is appointed by the President, by and with the advice and consent of the Senate;

(b) A position in the Senior Executive Service as a noncareer appointee (as defined in 5 U.S.C. 3132(a)(7));

(c) A position excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character; or

(d) A position not otherwise covered by the exclusions in paragraphs (a), (b), and (c) of this section—

(1) To which an individual is appointed by the President without the advice and consent of the Senate;

(2) Designated as the head of an agency, including an agency headed by a collegial body composed of two or more individual members; or

(3) In which the employee is expected to receive an appointment as the head of an agency.

### § 575.305 Applicability to employees.

(a) An agency may pay a retention incentive to an individual employee

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under the conditions prescribed in this subpart when the agency determines that—

(1) The unusually high or unique qualifications (*i.e.*, competencies) of the employee or a special need of the agency for the employee's services makes it essential to retain the employee; and

(2) The employee would be likely to leave the Federal service in the absence of a retention incentive.

(b) Except as provided in paragraph (c) of this section, an agency may pay a retention incentive to a group or category of employees under the conditions prescribed in this subpart when the agency determines that—

(1) The unusually high or unique qualifications (*i.e.*, competencies) of the group or category of employees or a special need of the agency for the employees' services makes it essential to retain the employees in that group or category; and

(2) There is a high risk that a significant number of the employees in the group would be likely to leave the Federal service in the absence of a retention incentive.

(c) An agency may not include in a group retention incentive authorization an employee covered by § 575.303(b), (c), (e) or those in similar categories of positions approved by OPM to receive retention incentives under § 575.303(g).

(d) A retention incentive may be paid only when the employee's rating of record (or an official performance appraisal or evaluation under a system not covered by 5 U.S.C. chapter 43 or 5 CFR part 430) is at least "Fully Successful" or equivalent.

### § 575.306 Authorizing a retention incentive.

(a) *Authority of authorized agency official.* An authorized agency official retains sole and exclusive discretion, subject only to OPM review and oversight, to—

(1) Determine when the unusually high or unique qualifications (*i.e.*, competencies) of an employee or a special need of the agency for the employee's services makes it essential to retain the employee and when the employee would be likely to leave the Federal